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| MALCOLM THOMAS | § | |
| v. | § | CIVIL ACTION NO. 5:14cv2 |
| YONNIE JAMES, ET AL. | § | |

No objections were filed to the Report; accordingly, the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal

conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (ECF TXED 5:14-cv-2, 30) is ADOPTED as the opinion of the District Court. It is further


ORDERED that the motion to dismiss (ECF TXED 5:14-cv-2, 29) filed by the Defendants Dawn Merchant and Tonya Peacock is GRANTED. The Plaintiff's claims against these parties are DISMISSED with prejudice and they are hereby terminated as parties to the lawsuit. It is further

ORDERED that the Plaintiff's claims for monetary damages against the remaining Defendants in their official capacities is DISMISSED as barred by the Eleventh Amendment. This shall not affect any claims for monetary damages against the Defendants in their individual capacities. It is further

ORDERED that the Plaintiff's claims against TDCJ Executive Director Brad Livingston are DISMISSED with prejudice as frivolous. Finally, it is

ORDERED that the motion to dismiss filed by the Defendants Kelly May and Christopher Avila, also contained in docket no. 29, is DENIED.

SIGNED this 4th day of August, 2015.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE